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Preface to the Gateway Thread

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PREFACE TO THE GATEWAY THREAD

For those of us who teach contract law, one of the most exciting things that happened in the Spring of 2000 was the prolonged and substantive discussion of *Hill v. Gateway 2000* that took place on the American Association of Law Schools Contracts Listserv. As the Chair of the Section on Contracts, I put together a panel to discuss *Gateway 2000* at the annual meeting in January 2000 and asked each participant to prepare an article that would be published in the Touro Law Review. While the law review was editing and finalizing the symposium on contract law that came out of that panel discussion, the articles by Professors Joo, Conley, Horsburgh, Ledwon, Ghosh and myself that appear in this issue, I decided that a symposium on *Gateway* would not be complete without the email messages in the *Gateway* thread.

In moving from DePaul Law School, where I was a visitor, to Touro, my home institution, I lost all the messages. It was my good fortune that Peter Linzer, a colleague at the University of Houston, was able to produce and to forward to me the vast majority of those messages. Thank you Peter. Professor Linzer made it possible for Touro Law Review to publish what follows: a spirited discussion by twenty-four law professors criticizing, defending and analyzing *Gateway*; Judge Easterbrook's use of the rules of contract formation, and his interpretation of Article 2 of the Uniform Commercial Code. It is still possible that some of the messages were not retrieved. We offer our sincerest apologies to anyone whose message has been omitted.

Anyone reading this thread will recognize how valuable it is. Over and over again the participants remark on how much they gained from the exchange that took place. Months later we were still revisiting this thread, passing along citations to new cases and relevant articles. The fact that we all learned so much from this discussion and exchange while it was going on led me to conclude that reading the messages might also be instructive for other teachers of contracts who missed this discussion, judges, lawyers and students. Now that I see all the messages in print, I realize that this thread is a valuable teaching tool. It is the best example I have seen of lawyers thinking out loud, solving

problems, puzzling through the complexities of the law. The messages delve into the realm of theory as well, considering the meaning and purpose of the law and legal rules as well as the empirical evidence (or lack of it) which would support inferences about the expectations of consumers or manufacturers.

Before you begin reading, there is some information about the manner in which the messages are presented that I would like to share with you. The text in some messages may be italicized. The italicized portion is part of an earlier message to which the writer is responding. Although we could have edited out these portions because they are redundant, we retained them because they preserve the content and the feel of the original thread. We arranged the messages in chronological order in what we hope approximates the order of the original thread. We have, at the request of some authors and in some cases where we thought it helpful, added citations to the cases or articles referenced in the message. Rather than use footnotes, we have enclosed this information in brackets in the original message.

Finally, I would like to thank every law professor whose remarks are reprinted here for his or her generosity and graciousness in allowing us to reprint this thread. I would also like to thank the editors of the law review, John Mooney and Anthea des Etages and my research assistants, Angie Baker and Maja Ilic-Buxo for all their hard work on this part of the symposium issue. Job well done!

Professor Deborah Waire Post